

Health and Care Board

Cabinet

Date: 16th October 2019

Author: Cabinet Member Adults and Health
Corporate Director Adult Social Services and Health

Wards: All

Parishes Affected: All

1. Purpose and Reasons

- 1.1 To consider the establishment of a Cabinet sub-Committee (“the Health and Care sub-Committee”) to form part of the new Health and Care Board for Swindon progressing joint commissioning arrangements between Swindon Borough Council and Swindon Clinical Commissioning Group and its successor.
- 1.2 Swindon Borough Council and the Clinical Commissioning Group have a long history of jointly commissioning services, including use of Section 75 Agreements National Health Services Act 2006). The current Section 75 was agreed in April 2015 for 5 years and expires in March 2020. In light of the developments within the NHS potentially to merge the Clinical Commissioning Groups for Bath and North East Somerset, Swindon and Wiltshire, there is a need for a new governance structure at a Swindon level to oversee and manage our pooled and aligned budgets
- 1.3 This report relates to Corporate Priority Four: help people to help themselves whilst always protecting our most vulnerable children and adults; Pledge 19

2. Recommendations

Cabinet is recommended to:

- 2.1 Agree the establishment of a new Health and Care Sub-Committee, with the Leader of the Council as the Chair of the sub-Committee and with delegated decision-making powers, in accordance with Article 7.01 of the Constitution.
- 2.2 Agree the Terms of Reference for the Sub-Committee as set out in **Appendix 1** and note the Leader’s scheme of delegation to the Cabinet sub-Committee in accordance with Article 7.06 of the Constitution, as set out in **Appendix 2**.
- 2.3 Request that the Cabinet Member for Adults and Health and the Corporate Director Adult Social Services and Health bring a report to Cabinet setting out the principles of a new Section 75 Agreement and any risk share issues to commence on the expiry of the existing agreement in March 2020.
- 2.4 Authorise the Chief Legal Officer, in consultation with the Leader of the Council, the Cabinet Member for Adults and Health, the Director of Finance, and the Corporate Director Adult Social Services and Health to

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- 2.4.1 Review the existing Section 75 Agreement and determine terms for a new s75 agreement
- 2.4.2 Subject to recommendation 2.3 above, enter into a new section 75 at the expiry of the existing Agreement in light of the emerging changes.

3. Detail

Background and Changes to CCGs

- 3.1 Swindon Borough Council and Swindon Clinical Commissioning Group have a Section 75 Agreement (s75 National Health Service Act 2006) across health and social care comprising of £52.7m CCG funding and £78.4m Swindon Borough Council funding for adult services. The agreement also includes £2.4m CCG funding and £39.2m Swindon Borough Council funding for children's services. A pooled budget is in place for the joint commissioning of the voluntary sector contracts of £2.4m. The agreement for adult services includes public health and the Better Care Fund.
- 3.2 The Bath and North East Somerset, Swindon, and Wiltshire Clinical Commissioning Groups (CCGs) have been consulting their membership on a potential merger of the CCGs. The formal application is planned to be submitted to NHS England on 30th September 2019 following agreement of all three CCG Governing Bodies. A joint Executive Management Team for the three CCGs is already in place. Swindon would be one of three localities with a Locality Director to be appointed.
- 3.3 Given these possible changes in the local Clinical Commissioning Groups, and based on the experiences of other local authorities including Bath and North East Somerset and Salford, there is an opportunity for Cabinet to refresh its governance arrangements for Section 75 Agreements through establishing a Health and Care Cabinet sub-Committee to represent the Council on the new local Health and Care Board for Swindon. This would provide decision-making and accountability at a Locality Level for the joint commissioning arrangements across Swindon Borough Council and the Clinical Commissioning Group. The budgets included in the new Section 75 will continue to fund services for health and adult social care as agreed as part of the annual budget setting process.

Scope, roles and responsibilities of the Health & Care Sub Committee

- 3.4 It is proposed that the Health and Care Sub-Committee would meet contemporaneously with the CCG and will be known as the 'Health and Care Board'. The terms of reference of the Sub-Committee will be confirmed in writing by the Leader of the Council to the Monitoring Officer. A draft of the Leader's scheme of delegation is set out in Appendix 2. Council would still determine the overall budget and financial policy framework; Cabinet would then approve the principles and risk sharing of any Section 75 Agreement. Decisions by the Health

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and Care sub-Committee would be subject to call-in and Scrutiny, in accordance with the Council's existing Constitutional provisions. The effect of the Sub-Committee meeting alongside the CCG committee will ensure that there is an improved framework in place locally in which the CCG and the Council can make decisions and ensure improved service delivery locally.

- 3.5 Within any principles agreed by Cabinet, the 'Health and Care Board' would then act as a single joint health, care and wellbeing commissioning body for Swindon to provide strategic direction for the joint commissioning of services and the formal partnership agreements.
- 3.6 The 'Health and Care Board' would commission a single outcome focused plan for Swindon for 2020/21 onwards that delivers the strategic objectives of Swindon Borough Council and the CCG and recommend the plan to Cabinet and the CCG Governing Body for approval.
- 3.7 The 'Health and Care Board' would provide assurance to Swindon Borough Council and the CCG regarding the performance, cost and outcomes achieved of all jointly commissioned services, ensuring statutory obligations are met.
- 3.8 Within the budgets agreed by the Council and the CCG, the 'Health and Care Board' would oversee the performance of pooled budgets and consider arrangements for further alignment or pooling.
- 3.9 The 'Health and Care Board' would also work towards delivering an approach to aligned savings plans for 2020/21 and thereafter. The full roles and responsibilities are set out in **Appendix 1**.

Proposed Membership, frequency of meetings and decision making

- 3.10 The Health and Care Cabinet sub-Committee would comprise four Cabinet Members. The CCG sub-Committee would comprise: - two Clinical Members (CCG), a Lay Member (CCG) and an Executive Director (CCG). The sub-committees would determine matters independently and both must agree to a proposal in order for it to be progressed. The Corporate Director and other Executive Directors may attend as non-voting members.
- 3.11 Meetings of the Health and Care sub-Committee would be held (contemporaneously with the CCG Sub-Committee) at least three times a year in public, and be subject to the Council's Access to Information rules, with minutes presented to Cabinet and Council.
- 3.12 The 'Health and Care Board' would be supported by the Joint Commissioning Group, which would implement the joint commissioning arrangements under the direction of the 'Health and Care Board'. The detailed reporting is set out in **Appendix 1**.

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4. Alternative Options

- 4.1 The alternative of not having Swindon BC representation on the 'Health and Care Board' could lead to a lack of local transparency governance and oversight of the NHS Act 2006 section 75 Agreements given the plans for Swindon CCG to merge with two other CCGs.

5. Implications, Diversity Impact Assessment and Risk Management

Financial and Procurement Implications

- 5.1 The current NHS Act 2006 section 75 Agreements are based on aligned budgets. Any future pooling of budgets would be based on both principles and an agreed risk share approved by Cabinet along with the budgetary framework agreed by Council.

Legal and Human Rights Implications

- 5.2 The decision-making process undertaken by the Health and Care Sub-Committee would have to comply with the principles of efficiency, transparency, and accountability that apply to Cabinet decisions.
- 5.3 Other legal and human rights implications have been taken into account in preparing this report. It is considered that the report's recommendations are compatible with Convention Rights.

All Other Implications (including Staff, Sustainability, Health, Rural, Crime and Disorder)

- 5.4 As part of the Health and Care Board the Health and Care sub-Committee would develop a joint commissioning plan to improve the health and wellbeing of the residents in Swindon with a clearly defined and monitored set of outcomes to be achieved.

Diversity Impact Assessment

- 5.5 A Diversity Impact Assessment (DIA) has not been completed for the proposed Health and Care Board as the recommendations in this report would not alter any service provided. Any future plans and strategies proposed by the Board would be subject to a DIA.

Risk Management

- 5.6 The 'Health and Care Board' would ensure that any future pooled budget has been risk assessed before a recommendation is made for future pooling.

6. Consultees

- 6.1 Swindon CCG Governing Body will consider the report on 24th October 2019.

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- 6.2 The Director of Finance (Section 151 Officer) and Chief Legal Officer (Monitoring Officer) are consulted in respect of all Cabinet reports.

7. Background Papers

- 7.1 None

8. Appendices

- 8.1 Appendix 1: 'Health and Care Board' draft Terms of References
8.2 Appendix 2: Scheme of Delegation to the Cabinet Committee

9. Key Decision/Decision in Cabinet Work Programme

- 9.1 This is a Key Decision and is included in the Cabinet Work Programme for October 2019 to October 2020.